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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

THE PEOPLE,

Plaintiff and Respondent,

v.

JOHN GLENN HENNESSEY,

Defendant and Appellant.

B209042

(Los Angeles County
Super. Ct. No. PA056536)

APPEAL from a judgment of the Superior Court of Los Angeles County,
Harvey Giss, Judge. Affirmed.

Linda Acaldo, under appointment by the Court of Appeal, for Defendant and
Appellant.

No appearance for Plaintiff and Respondent.

Defendant John Glenn Hennessey appeals from the judgment entered following his no contest plea to one count of receiving stolen property (Pen. Code, § 496, subd. (a).) Pursuant to this plea and the court's subsequent finding two of defendant's prior convictions to be true, one of which was a strike within the meaning of Penal Code sections 1170.12, subdivisions (a) through (d), and section 667, subdivisions (b) through (i), defendant was sentenced to a total of six years in state prison.

On June 2, 2007, Los Angeles County Sheriffs apprehended defendant at a shopping center located at 25235 Wiley Canyon Road. The officers recovered four credit cards belonging to victim Kara Lawhorn on defendant's person. The officers contacted the victim who told them that her car had been stolen along with personal belongings inside the car, including the credit cards found on defendant. She stated that she did not give anyone permission to use the car.

Lawhorn's car was recovered in the parking lot of the shopping center with three passengers inside. All three passengers told the apprehending officers that defendant had been driving the car and had picked each of them up.

An information was filed on September 20, 2007, charging defendant with one count of receiving stolen property. (Pen. Code, § 496, subd. (a).) It further alleged that defendant had suffered three prior convictions, two of which were alleged as strikes. On January 31, 2008, defendant withdrew his previously entered not guilty plea, and pled no contest to the count against him. The court found that there was a factual basis for the plea and accepted it. Defendant also waived his right to a jury trial on the subject matter of his prior convictions, opting instead for the court to hold a hearing on the priors and a *Romero*¹ motion he wished to file at the probation and sentencing hearing.

¹ *People v. Superior Court (Romero)* (1996) 13 Cal.4th 497.

A restitution hearing was held on February 1, 2008, at which time defendant expressed his desire to withdraw his no contest plea for reason of incompetent counsel.

On May 7, 2008, out of an “abundance of caution,” the court held what it deemed a hybrid *Marsden*² hearing to determine whether there was any basis for defendant’s motion to set aside his plea, and also whether there was any merit to defendant’s allegation that he was represented inadequately by counsel. The court found that there was no basis to set aside the plea, and that there was no conflict of interest between defendant and his counsel. Instead, the court opined that defendant’s change of heart regarding his plea was nothing more than a case of buyer’s remorse.

On May 20, 2008, the court found three of defendant’s prior convictions to be true. The court also found one of the priors, a first degree burglary conviction, to be a strike within the meaning of Penal Code sections 1170.12, subdivisions (a) through (d), and section 667, subdivisions (b) through (i). Defendant was sentenced to the mid-term of two years, doubled for four years, with one year added for his prior prison term for the burglary conviction and one year added for his prior prison term for a stolen property conviction.

After review of the record, appellant’s court-appointed counsel filed an opening brief requesting this court to independently review the record pursuant to the holding of *People v. Wende* (1979) 25 Cal.3d 436, 441.

On February 10, 2009, we advised appellant that he had 30 days within which to personally submit any contentions or issues that he wished us to consider. Defendant has not identified any issues to date.

² *People v. Marsden* (1970) 2 Cal.3d 118, 123.

We have examined the entire record and are satisfied that no arguable issues exist and that appellant has, by virtue of counsel's compliance with the *Wende* procedure and our review of the record, received adequate and effective appellate review of the judgment entered against him in this case. (*Smith v. Robbins* (2000) 528 U.S. 259, 278; *People v. Kelly* (2006) 40 Cal.4th 106, 112-113.)

DISPOSITION

The judgment is affirmed.

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WILLHITE, Acting P. J.

We concur:

MANELLA, J.

SUZUKAWA, J.